

***United States Court of Appeals  
for the Second Circuit***



**APPELLANT'S  
SUPPLEMENTAL  
APPENDIX**

76-6163

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

-----x  
SANTIAGO, GREGORY R.

Plaintiff,

-against-

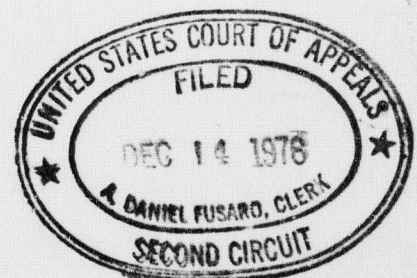
SECRETARY OF THE DEPARTMENT OF  
HEALTH, EDUCATION AND WELFARE  
OF THE UNITED STATES,

Defendant.  
-----x

SUPPLEMENTARY APPENDIX  
OPINION OF THE DISTRICT COURT

JOHN C. GRAY, JR.  
GRETCHEN L. SPRAGUE, Of Counsel  
Brooklyn Legal Services Corp. B  
152 Court Street  
Brooklyn, New York 11201  
(212) 855-8003

Attorney for Appellant





UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT  
-----x

SANTIAGO, GREGORY R.

Plaintiff,

Docket No.  
76-6163

-against-

SECRETARY OF THE DEPARTMENT OF  
HEALTH, EDUCATION AND WELFARE  
OF THE UNITED STATES,

Defendant.  
-----x

SUPPLEMENTARY APPENDIX  
OPINION OF THE DISTRICT COURT

JOHN C. GRAY, JR.  
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152 Court Street  
Brooklyn, New York 11201  
(212) 855-8003

Attorney for Appellant



UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

----- X  
GREGORY ROMAN-SANTIAGO,

Plaintiff,

76 C 2129

-against-

DAVID MATHEWS, Secretary of  
Health, Education and Welfare,

Defendant.

----- X

Appearances:

GRETCHEN L. SPRAGUE, Esq. (JOHN C. GRAY, JR., Esq.  
Brooklyn Legal Services Corp.) of Counsel for  
plaintiff

MICHAEL G. CAVANAGH, Esq. (DAVID G. TRAGER, Esq.,  
United States Attorney) of Counsel for defendant

DOOLING, D.J.

It is not possible to set aside the Secretary's determination that plaintiff was not under a disability within the meaning of the statute (42 U.S.C. 423(d)). As often in cases in which a party complains of a back injury, there were no objective symptoms of moment, and medical testing and examination failed to portray more than partial impairment of work capacity.

The substantial question is whether the Administrative Law Judge was able to function fairly and effectively when he



had to deal with a layman and with a language barrier of uncertain sort. It must be concluded that he was able to and did act fairly and effectively. He secured an interpreter of whom plaintiff did not complain. He gave plaintiff time to obtain a lawyer and plaintiff was unable to do so. The Administrative Law Judge then went ahead, and, particularly in his questioning of the vocational expert, showed manifest willingness and ability to sort out the facts. It is difficult to see how, on the record, he could have decided in plaintiff's favor.

Toward the close of the hearing the Administrative Law Judge explained that he might well decide against plaintiff, and he explained to plaintiff that with additional or supplemental medical evidence he could apply afresh to show that he came under a disability at any time through September 30, 1975, (four and a half months after the close of the hearing).

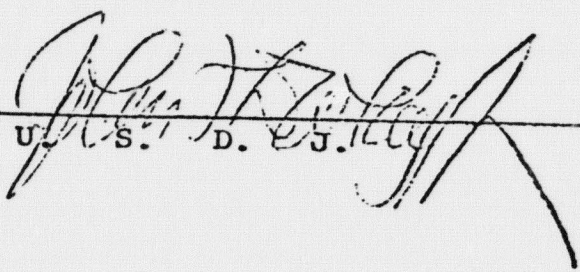
It is concluded that the Secretary's determination must be affirmed. It is

ORDERED that defendant's motion for judgment is granted and plaintiff's motion for judgment is denied and the Clerk is directed to enter judgment that plaintiff take nothing and

that the action is dismissed on the merits.

Brooklyn, New York

October 6, 1976.

  
U. S. D. & J.



AFFIDAVIT OF SERVICE BY MAIL

STATE OF NEW YORK     )  
                              :   ss.:  
COUNTY OF KINGS     )

Gretchen L. Sprague,                   being duly sworn, deposes  
and says:

That deponent is not a party to the action, is over 18  
years of age and resides at 1150 East 29th Street, Brooklyn,  
New York.

That on the 14th day of December , 1976, deponent  
served the within

Supplementary Appendix, Opinion of the District Court  
on  
each addressee listed below, being the address designated by  
said Attorney       for that purpose, by depositing a true copy  
of same enclosed in a postpaid properly addressed wrapper, in  
an official depository under the exclusive care and custody  
of the United States Post Office Department within New York  
State, addressed to:

Michael Cavanagh, Esq.  
Assistant United States Attorney  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Gretchen L. Sprague  
Gretchen L. Sprague

Sworn to before me this  
14th day of December , 1976

V. Yvonne Lewis  
NOTARY PUBLIC

BEST COPY AVAILABLE

V. YVONNE LEWIS  
Notary Public, State of New York  
No. 31-4518340  
Qualified in New York County  
Commission Expires March 30, 1978